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**From:** Adm13McCarthy, Gina  
**Sent:** Sat 2/21/2015 4:14:51 PM  
**Subject:** Re: R8 Weekend Report

Wow. Lots going on. See you in the morning.

Sent from my iPhone

On Feb 21, 2015, at 8:26 AM, McGrath, Shaun <McGrath.Shaun@epa.gov> wrote:

### **R8 Weekend Report**

***Mamm Creek (Colorado)*** -- In mid-January, I met with Matt LaPore (COGCC) and Martha Rudolph (CDPHE) to discuss our data analysis of the Mamm Creek oil field. COGCC has been doing its own analysis since. COGCC has briefed up to Mike King, director of the DNR and to the Gov's Office, and King has asked to meet with me as soon as possible. Additionally, our respective staffs will meet to have a deeper, more technical exchange once I have met with King. I am comfortable that this is progressing in a thoughtful yet timely manner. I understand from the Gov's office, that he is not prepared to discuss this issue with you at NGA. I would recommend that we let my discussions with King and the staff level discussions play out before elevating, which will allow us to better assess how aligned (or not) we are on the data and steps forward.

***Montana Nutrients*** -- Next week the Region will issue its approval of Montana's water quality standards package for nutrients. This is a culmination of years of effort by the Montana DEQ and Region 8 and OW staff and this package will be among the first in the nation, setting precedent for future nutrient standards in other states. The Montana standards for Total Nitrogen and Total Phosphorus are very protective and allow for up to 20 year variance with reviews of the variance justification by EPA every three years. Notably, we have received a Notice of Intent to Sue on this package by a local group and expect future litigation.

***North Dakota UIC Program*** -- This week, "Forum News" published a report that ND's Dept of Minerals Resource's Division of Oil and Gas, which has primacy for Class II wells, routinely ignores EPA guidelines for O&G produced water disposal, resulting in brine being injected even though well integrity tests have detected weaknesses in the well's construction. After discussing it with Stan, R8 quickly jumped on the report and we have developed a proposed strategy that I plan on discussing with Ken and Cynthia this weekend.

On Friday, Lynn Helms, director of ND Dept of Minerals, called to ask our reaction to the article and to express his interest to partner with the Region. He also criticized the journalist

of the article, and suggested that much of the recent press is driven by “activist landowners.”

Helms said they had submitted an op-ed to rebut the story with a list of corrections, which may be published by the Dickinson Press this weekend. This is on the NDIC website: <https://www.dmr.nd.gov/oilgas/pressreleases/PressRelease02192015.pdf>

We firmly emphasized that we will not parse through the news article, but that we will work with them, possibly thru the mid-year review, to dive into the issues that we think need to be discussed and ultimately addressed, if any.

If this matter comes up in your meeting with Gov Dalrymple, I will be prepared to discuss.

***ND Class VI Delegation*** -- A related issue that Gov Dalrymple may raise is the status of their application to become the first delegated state for Class VI wells. I have responded to Lynn Helms a few months back that we are doing our due diligence given that this will be the first of its kind. However, ND and Gov may be getting antsy for a decision. The NYTimes articles that raised questions regarding ND's enforcement programs, and now this article that questions ND's compliance with Class II program requirements may be relevant themes to explore with the Gov if he raises status of Class VI.

***Meetings with MHA Nation Regarding O&G Development in Fort Berthold Indian Reservation (1/3 of Bakken crude)*** -- Last week I led an R8 delegation up to MHA to meet with Chairman Fox, the MHA Business Council, and MHA's environmental program staff. It was very productive and successful. We agreed to collaboratively develop and pursue improved approaches on a range of issues related to O&G. As a next step, I will meet with Chairman Fox next Thur when he is in CO for the Bakken Federal Executive Group meeting, and my staff will meet with MHA program staff in early March to begin discussing and developing a draft work plan.

***Blacktail Creek Brine Spill in Bakken (ND)*** -- On February 6, 2015, R8 sent a letter to Dave Glatt to convey EPA's interest in working with the state to take enforcement actions related to the Blacktail Creek spill.

Key messages conveyed to Glatt:

We want to consult and coordinate with the state to ensure efficient and effective enforcement actions necessary for the protection of waters of the United States in North Dakota.

Strong enforcement is critical. Not only does enforcement send a message to the company responsible for this discharge and other companies operating in the Bakken, but it helps ensure a level playing field for those companies that take the steps necessary to comply with the law.

The EPA is committed to taking the steps necessary to uphold its obligation to the public to consistently and fairly enforce our environmental laws, and we know that the North Dakota Department of Health is equally committed to protecting the public health of its citizens and the state's environment.

On February 19, My staff spoke with Glatt. Glatt said he did not want to take a back seat in an enforcement action with EPA. He agreed to a future conversation regarding how we could be co-plaintiffs in an action and agreed that it would be beneficial if we could streamline and coordinate our interactions with Summit.

***Bakken Crude Train Derailment in West Virginia*** -- CSX officials disclosed this week that the tankers that caught fire in West Virginia bore the latest design features, raising doubts over whether the new rules would have helped. It is worth also noting that the Bakken oil in the derailment/explosion was NOT subject to the new ND rules requiring steps to reduce volatility prior to rail transport. Those rules go into effect in April.

Sent from my iPhone